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02570 U.S.PTO

DT07 Rec'd PCT/PTO U 9 APR 2004

PTO/SB/05 (01-04)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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UTILITY
PATENT APPLICATION
TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.	LP-02-021
First Inventor	Clifton Miller
Title	See Appendix I
Express Mail Label No.	EL994387055US

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

ADDRESS TO:
Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

1. Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
2. Applicant claims small entity status.
See 37 CFR 1.27.
3. Specification [Total Pages 15]
(preferred arrangement set forth below)
 - Descriptive title of the invention
 - Cross Reference to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Reference to sequence listing, a table, or a computer program listing appendix
 - Background of the Invention
 - Brief Summary of the Invention
 - Brief Description of the Drawings (if filed)
 - Detailed Description
 - Claim(s)
 - Abstract of the Disclosure
4. Drawing(s) (35 U.S.C. 113) [Total Sheets 3]
5. Oath or Declaration [Total Sheets]
 - a. Newly executed (original or copy)
 - b. Copy from a prior application (37 CFR 1.63(d))
(for continuation/divisional with Box 18 completed)
 - i. DELETION OF INVENTOR(S)
Signed statement attached deleting inventor(s) name in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. Application Data Sheet. See 37 CFR 1.76

7. CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
 - a. Computer Readable Form (CRF)
 - b. Specification Sequence Listing on:
 - i. CD-ROM or CD-R (2 copies); or
 - ii. Paper
 - c. Statements verifying identity of above copies

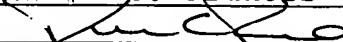
ACCOMPANYING APPLICATION PARTS

9. Assignment Papers (cover sheet & document(s))
10. 37 CFR 3.73(b) Statement Power of (when there is an assignee) Attorney
11. English Translation Document (if applicable)
12. Information Disclosure Statement (IDS)/PTO-1449 Copies of IDS Citations
13. Preliminary Amendment
14. Return Receipt Postcard (MPEP 503) (Should be specifically itemized)
15. Certified Copy of Priority Document(s) (if foreign priority is claimed)
16. Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
17. Other: See Appendix I

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:

 Continuation Divisional Continuation-in-part (CIP) of prior application No.:Prior application information: Examiner _____ Art Unit: _____
For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

<input type="checkbox"/> Customer Number:				OR	<input type="checkbox"/> Correspondence address below
Name	Ralph C. Francis			RECEIVED APR 14 CPE/JC	
Address	Francis Law Group			804	
1808 Santa Clara Ave					
City	Alameda	State	CA	Zip Code	94508
Country	USA	Telephone	510.769.9800	Fax	510.769.9804
Name (Print/Type)	Ralph C. Francis			Registration No. (Attorney/Agent)	38,884
Signature				Date	04/07/04

This collection of information is required by 37 CFR 1.53(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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040704
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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

 Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 1050.00

Complete if Known

Application Number	To be assigned
Filing Date	April 7, 2004
First Named Inventor	Clifton Miller
Examiner Name	To be assigned
Art Unit	To be assigned
Attorney Docket No.	LP-02-021

METHOD OF PAYMENT (check all that apply)

 Check Credit card Money Order Other None
 Deposit Account:
 Deposit Account Number
 06-1838
 Deposit Account Name
 Francis Law Group

The Director is authorized to: (check all that apply)

 Charge fee(s) indicated below Credit any overpayments
 Charge any additional fee(s) or any underpayment of fee(s)
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity	Small Entity	Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee			385
1002 340	2002 170	Design filing fee			
1003 530	2003 265	Plant filing fee			
1004 770	2004 385	Reissue filing fee			
1005 160	2005 80	Provisional filing fee			
SUBTOTAL (1) (\$)		385			

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Independent Claims	Multiple Dependent	Fee from	Fee Paid
			Extra Claims below	
17	-20** = 0		x 9	= 0
2	-3** = 0		x 43	= 0

Large Entity	Small Entity	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent
SUBTOTAL (2) (\$)		0

**or number previously paid, if greater; For Reissues, see above

3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	\$ 665
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 665

SUBMITTED BY

(Complete if applicable)

Name (Print/Type)	Ralph C. Francis	Registration No. (Attorney/Agent)	38,884	Telephone 510.769.9800
Signature			Date	04/07/04

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
LP-02-021

First named inventor: **Clifton Miller**Application No.: **To be assigned**Art Unit: **To be assigned**Filed: **April 7, 2004**Examiner: **To be assigned**Title: **A Paint Sealer for Use
Within Paint Cans**

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

04/14/2004 HLE333 00000048 10822880

01 FC:2453 665.00 DP

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee –required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Small entity-fee \$ 665 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

has been filed previously on _____

is enclosed herewith.

B. The issue fee of \$ _____

has been paid previously on _____

is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

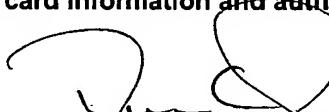
A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

04/07/04

Date



Signature

Telephone

Number: (510) 769-9800Ralph C. Francis

Typed or printed name

1808 Santa Clara Ave

Address

Alameda, CA 94501

Address

Enclosures: Fee Payment Reply Terminal Disclaimer Form Additional sheets containing statements establishing unintentional delay Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

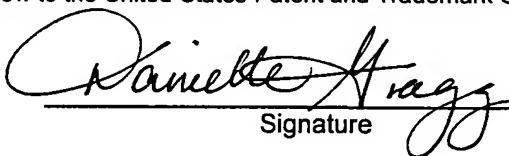
I hereby certify that this correspondence is being:

deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop PCT .., Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

4-7-04

Date



Signature

Danielle Gragg

Type or printed name of person signing certificate

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:)
CLIFTON MILLER)
FOR: **A Paint Sealer for Use Within**)
Paint Cans)
SERIAL NO: **to be assigned**)
FILED: **April 7, 2004**)
ART UNIT NO: **to be assigned**)
EXAMINER: **to be assigned**)
Attorney Docket No: **LP-02-021**)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Statement of Unintentional Delay
Pursuant to 37 C.F.R 1.137(b)

Dear Sir:

On June 4, 2002, PCT Application No. PCT/AU02/00709 was duly filed. A copy of the noted PCT Application is enclosed herewith.

In the months preceding the 30-month national filing deadline, Applicant, C. Miller, was exploring commercial opportunities in Europe and the U.S. Since the 30-month deadline was approaching fast, our Associate in Australia, LesicarPerrin, advised Mr. Miller that an option he should consider was to withdraw priority and, since the invention was not prior used or published, the only downside to withdrawing priority was the loss of the priority date. Mr. Miller agreed with the suggested course of action and on Friday, December 5, 2003 instructed LesicarPerrin to withdraw priority; the 30-month deadline being on **Saturday**, December 6,

2003. On **Monday, December 8, 2003**, Dr. Drazen Lesicar of LesicarPerrin instructed his staff to withdraw priority. Unknown to Dr. Lesicar, after he signed the request to withdraw priority letter, the letter was sent by one of his junior associates through normal post rather than being fax or couriered. The request to withdraw letter was thus received at the AU Patent Office on December 9, 2003. Unlike U.S. practice, in Australia, the date of receipt of a document is not the date that is posted, but rather the date that it is actually received by the AU Patent Office.

Dr. Lesicar was thus surprised to receive the notice from the International Bureau that the withdrawal of priority had been accorded a **December 9, 2003** effective date. The withdrawal of priority was thus ineffective. This notice was received in late January.

Promptly upon receipt of the notice from the International Bureau, Dr. Lesicar wrote to the Bureau advising them of the mistake. In response, the International Bureau advised Dr. Lesicar that the December 9, 2003 date was provided by AU Receiving Office.

Dr. Lesicar then contacted the AU Patent Office and spoke directly to the Deputy Commissioner. The Deputy Commissioner advised Dr. Lesicar that unfortunately the wording of Article 48 makes it clear that once the 30-month date passes, the local receiving office has no authority to grant extra time to act and only individual national offices have the authority to grant additional time to commence national phase prosecution in their respective countries.

In the interim, an Associate in Germany was able to withdraw the request to withdraw priority letter. Priority has thus been effectively restored.

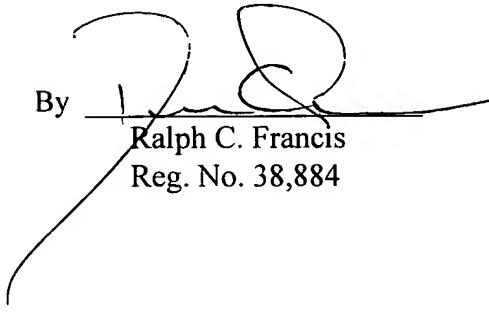
Shortly thereafter, our office was advised of the unintentional error in withdrawing priority and instructed to seek revival of the noted PCT Application and file a national phase Application in the U.S.

Applicant accordingly respectfully submits that the delay in filing the above referenced national phase application was unintentional and respectfully requests that the priority PCT Application be revived.

Statement of Unintentional delay
Attorney Docket No: LP-02-021

The Commissioner is hereby authorized to charge any additional fees, or credit any overpayment to Deposit Acct No. 06-1838.

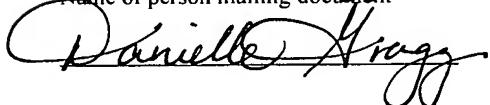
Respectfully submitted,
Francis Law Group

By 
Ralph C. Francis
Reg. No. 38,884

Dated: April 7, 2004
FRANCIS LAW GROUP
1808 Santa Clara Avenue
Alameda, CA 94501
(510) 769-9800

I hereby certify that this document is being deposited with the United States Postal Service on this date 4.7.04 in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EL 99438705515 addressed to the Attn: Office of Petitions; Mail Stop PCT; Commissioner for Patents, P.O. Box 1450, Alexandria, VA. 22313-1450.

Danielle Gragg
Name of person mailing document



APPENDIX I

Title: A Paint Sealer for Use within Paint Cans

Accompanying Application Parts:

Petition for Revival Under 37 C.F.R 1.137(b)
Statement of Unintentional Delay
International Search Report